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June 2, 2019

By ECF and email

The Hon. William F. Kuntz
United States District Court Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

***Re: United States v. Ali Saleh,
18 Cr. 468 (WFK)***

Dear Judge Kuntz:

We write to address the Government's Request to Charge No. 10, which suggests language in the event the parties agree to stipulate to the first element required to establish Count Two of the Indictment (Possession of Contraband in Prison). See Gov't Request to Charge, dated, May 28, 2019 (Doc. No. 28), Request No. 10, at 15; see also 18 U.S.C. §§ 1791(a)(2), 1791(b)(3). Specifically, we write to inform the Court and the Government that the defense is willing to stipulate to this element in the manner proposed in the Government's Request to Charge.

The Government proposes that the following language be added to the charge instructing the jury on the first element of Count Two:

The parties have stipulated that the defendant was an inmate at MDC-Brooklyn, at the time specified in the Indictment. I instruct you, in this connection, that the fact that defendant was imprisoned is an element of the charge here that is not disputed. You are not to consider that fact for any other purpose. You are not to speculate as to why he was in prison.

See Gov't Request to Charge, dated, May 28, 2019 (Doc. No. 28), Request No. 10, at 15, citing, Sand, Modern Federal Jury Instructions, Instruction 43-8.

The defense is willing to accept the Government's offer to stipulate to this language and those facts.

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Respectfully submitted,

/S/

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cc: All parties of record (by ECF and email)